UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

APR 26 2010

Ms. Gail Cismowski
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

Dear Ms. Cismowski:

Thank you for the opportunity to comment on the proposed Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins to Address Selenium Control in the San Joaquin River Basin (Selenium Basin Plan Amendment) and the accompanying Draft Staff Report, both dated March 2010. As we discussed with you earlier, we have determined that this amendment, if adopted, is reviewable under Clean Water Act (CWA) section 303(c) due to the extension of compliance time schedule for meeting the 4-day average and monthly mean water quality objective for selenium in Mud Slough (north) and the San Joaquin River from Sack Dam to the Merced River. We would also like to provide the following comments regarding the Draft Staff Report:

We have some concerns regarding the feasibility of the Grasslands Bypass Project (GBP) operators being able to implement appropriate drainage treatment technologies by December 31, 2019. We are encouraged that the Board staff report expects that in addition to planned treatment of drainage, the Grassland Area Farmers (GAFs) will be utilizing a more comprehensive suite of drainage services actions including source control measures and other projects described in the Westside Regional Drainage Plan. However, since there is substantial uncertainty about whether the GBP operators can find a treatment technology that works, scales up, and is economically feasible by 2019, we believe it would be prudent for the Board to consider other approaches to drainage management that could provide alternative means of meeting the proposed performance goal by 2015 and the final water quality objective by 2019. For example, while the drainage plans look to remove lands with drainage problems on a voluntary basis, a more effective approach would be to target lands that contribute high selenium inputs (e.g. upslope lands not necessarily within the Grasslands). In addition, rotational land fallowing to meet loads should also be considered.

We also believe that the "No Project Alternative" scenario which projects a potential collapse in cooperative work in the grasslands absent the Grasslands WDR may be overstated. Although the Grasslands Use Agreement is innovative and has encouraged positive interagency cooperation, there are other programs and commitments that could step in if necessary. These include:

- Involvement in implementation of the Westside Drainage Plan as a component of the San Luis Unit program;
- Possible inclusion in the Irrigated Lands Regulatory Program. Although the Grasslands farmers don't currently participate because they are subject to a separate waste discharge requirement, this situation could be reevaluated.

Page 22 of the Draft Staff Report outlines some important mitigation measures, but does not include any monitoring activities that could ensure that the measures are working. We support the mitigation measures, but request that the Board also include appropriate monitoring and assessment needed to evaluate results and adjust implementation accordingly. EPA is committed to supporting development of an integrated water quality monitoring and assessment in the San Joaquin Basin.

We would also like to inform you that EPA will publish in the very near future, revised draft CWA 304(a) aquatic life criteria for selenium. Our approach will be to express the chronic criterion as both an egg-ovary concentration and two water column concentrations, one for lentic waters and one for lotic waters. The egg-ovary concentration is the principal criterion because it is the most scientifically defensible toxicity endpoint that is consistent across the largest range of fish species. The two water column concentrations have been derived using conservative translations of the egg-ovary concentration to water concentrations for lentic and lotic waters and are intended to be protective in the vast majority of cases. We believe that states and authorized tribes might find it advantageous to adopt both the egg-ovary concentration and water column concentrations into their water quality standards as the selenium criterion. The water column concentrations will allow the development of permits without the need for tissue-to-water translations, whereas the egg-ovary criterion concentration can be used as the basis for developing translations of the egg-ovary criterion concentration to site-specific water concentrations if desired. Both the lentic and lotic water column concentrations are more stringent than the current California Toxics Rule chronic freshwater criterion of 5 ug/l.

Additionally, EPA is working on developing statewide wildlife criteria for selenium, pursuant to our Endangered Species Act consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, for the California Toxics Rule. These criteria will most likely be more stringent than the revised draft national CWA 304(a) criteria, since they will be designed to protect threatened and endangered species in California.

We appreciate the opportunity to review and comment on the proposed Selenium Basin Plan Amendment. If you have any questions, please contact me at (415) 972-3452, or Matt Mitchell at (415) 972-3508.

Sincerely,

Janet Hashimoto

Janet Hashimoto, Manager
Standards and TMDL Office